IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE TWENTY SEVENTH DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE K.C. BHANU

WRIT PETITION NO : 24229 of 2004

Between:

T.K.Swamy, S/o.Viswanatha Rao,

Hindu Conductor (E-252712)
Mahabubnagar Dist.

..... PETITIONER

AND

1 The Depot Manager APSRTC, Wanaparthy Bus Depot,
2 The Dy.Chief Traffic Manager (Divisional Manager),

Mahabubnagar.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ or order or direction more particularly one in the nature of writ of mandamus declaring that the action of the respondents in imposing the punishment of withholding of petitioners annual increments for a period of two years which shall have effect on petitioners future increments as illegal, arbitrary, unjust and unreasonable and violative of principles of natural justice and against the judgments of this Hon'ble court as well as apex court and consequently set a side the final order in Proc.No.02/95(94)-WNP dt 12-9-1995 of the Respondents herein and consequently direct the respondents to pay the withhold increments and pass such other order or orders.

Counsel for the Petitioner: MR.P.VENKATESWAR RAO

Counsel for the Respondents: MR.P.VINAYAKA SWAMY

The Court at the admission stage, made the following :

THE HON'BLE MR JUSTICE K.C. BHANU

WRIT PETITION NO : 24229 of 2004

ORDER:

The petitioner is working as a conductor in the respondent-Corporation. He was issued a charge memo and after receiving the explanation of the petitioner, the final orders were passed on 12-09-1995 imposing the penalty of withholding of one incremental stage for a period of two years with cumulative effect. The petitioner questioned the order on the ground that though there is reduction of annual increment with cumulative effect is a major penalty, the respondent passed the impugned order without conducting any enquiry as required under the rules. Therefore, the order is illegal and it is liable to be set aside.

2. The learned Counsel for the petitioner relied on a judgment of the Supreme Court in **Kulwant Singh Gill v. State of Punjab**[1] wherein the Supreme Court

held that since the punishment imposed on the petitioner is a major punishment, the order cannot be sustained without an enquiry. The petitioner therefore seeks to declare that the order is illegal and it is liable to be set aside.

3. The petitioner after receiving the adverse orders slept over the matter for a period of 9 years. There are latches on his part in asserting his right regarding this issue. Though the impugned order is liable to be set aside, on account of long lapse of time and in view of the judgment of the Supreme Court in **Kulwant Singh** Gill (1 supra), I am of the view that it would be appropriate if the punishment imposed on the petitioner is treated as reduction of one annual increment without cumulative effect. The petitioner is not entitled for the difference of the amount, if any, by virtue of this order for the period from the date of the impugned order till the date of this order. But, he is entitled to get increments on notional calculation from the date of this order to which he is entitled, as he had not been imposed penalty of reduction of one annual increment without cumulative effect.

4. The Writ Petition is accordingly disposed of with the above observations.

December 27, 2004

Kvr

To

1. The Depot Manager APSRTC, Wanaparthy Bus Depot,
2. The Dy.Chief Traffic Manager (Divisional Manager)

3. 2 C.D copies.